

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JIN MING CAO,

Plaintiff,

—against—

JIAN LI *aka James Li*, SO SUET *aka*
Susan Li, GUO XIANG HU, and NENG
QIN HU,

Defendants.

ORDER

15 Civ. 8945 (ER)

RAMOS, D.J.:

Cao, proceeding *pro se* and *in forma pauperis*, filed a complaint on November 13, 2015. Doc. 2. On December 11, 2015, the Court issued an Order of Service, directing the U.S. Marshals Service to attempt service on Cao's behalf. Doc. 5. In that Order, the Court advised, "Plaintiff must effect service within 120 days of the date the summons is issued. It is Plaintiff's responsibility to inquire of the Marshals Service as to whether service has been made and, if necessary, to request an extension of time for service." Doc. 5 at 1 (quoting *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012)).

On January 29, 2020, the Court ordered Cao to file a status report by February 26, 2020. Doc. 10. On April 6, 2020, the Court again ordered Cao to file a status report by May 1, 2020, warning that failure to respond would "risk having this action dismissed." Doc. 11 (citing Fed. R. Civ. P. 4(m)). For the below reasons, the Court dismisses Cao's action for failure to execute service under Federal Rule of Civil Procedure 4(m).

"If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — *must* dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m) (emphasis added).

Given that over four and a half years have passed since the filing of the complaint in this action, and given Cao has failed to respond to the Court's warning of the consequences of failure to serve or provide good cause for the lack of service without response, the Court DISMISSES Cao's action without prejudice. The Clerk of Court is respectfully directed to terminate any pending motions and to close the case.

It is SO ORDERED.

Dated: July 24, 2020
New York, New York



EDGARDO RAMOS, U.S.D.J.